

The Honorable Samuel J. Steiner
Chapter 7
Hearing Location: Courtroom 8206, Seattle
Hearing Date: July 30, 2010
Hearing Time: 9:30 a.m.
Response Date: July 23, 2010

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

In Re:)	Chapter 7
)	No. 05-19170
TIFFIANI LIA LINDSTEDT)	
)	TRUSTEE'S NOTICE OF HEARING
)	AND MOTIONS FOR AUTHORIZATION
)	OF SETTLEMENT OF CLAIM,
)	APPROVAL AND PAYMENT
)	OF SPECIAL COUNSEL FEES,
)	DENIAL OF DEBTOR EXEMPTION,
Debtor.)	AND ABANDONMENT OF CLAIMS

NOTICE

TO: Debtor, Creditors, and Other Interested Parties

And to: Clerk of the Court

YOU AND EACH OF YOU are hereby given notice that the below stated motions will be heard by the court as follows:

JUDGE: Samuel J. Steiner
PLACE: Courtroom 8206
U.S. Courthouse
700 Stewart Street
Seattle, WA 98101

TIME: 9:30 a.m.
DATE: July 30, 2010

Objections/Responses

Any responses or objections to the motion must be in writing, with the original filed with the Clerk of the Bankruptcy Court, Room 6301, 700 Stewart Street, Seattle, Washington 98101, prior to the response date which is July 23, 2010. Failure to comply with this local rule may be deemed by the court as opposition without merit. If you are an attorney, your response or objection must be

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RONALD G. BROWN
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1 filed electronically on the Court's CM/ECF system. A copy should be delivered to the chambers
2 of the judge hearing this matter, a copy served on the United States Trustee, Room 5103, 700
3 Stewart Street, Seattle, Washington 98101, and a copy served on the Trustee at the address shown
4 in the lower right hand corner of this Notice or via ECF. If responsive pleadings are not filed as
5 stated above, the hearing may be stricken and an order granting the relief requested in the motion
6 may be presented, without further notice, to the court ex-parte prior to the scheduled hearing.

7 MOTION

8 COMES NOW the Chapter 7 Trustee, Ronald G. Brown, and moves this court for an order
9 as follows:

10 1. For authority to approve settlement of employment claims in the sum of \$12,000.00.

11 The bankruptcy estate asserts claims arising from the debtor's employment claims arising
12 from state court litigation under Pierce County Superior Court No. 08-2-07804-9. The corporate
13 defendants in the litigation vigorously contested the case and discovery was time consuming.
14 Special counsel, who previously represented the debtor in the litigation, represented the bankruptcy
15 estate and assisted in obtaining a settlement against some of the defendants. Under the terms of
16 settlement, the bankruptcy estate is receiving sufficient funds to pay administrative fees and costs
17 and pay some funds to timely filed creditor claims filed in the bankruptcy proceedings.

18 Under the criteria in In re A&C Properties, 784 F.2d 1377 (9th Cir., 1986), the court
19 considers a number of factors in determining whether to approve a settlement proposed by a
20 bankruptcy estate, including (1) the probability of success in legal proceedings; (2) the difficulty of
21 collection; (3) the complexity of the legal proceedings and the expense involved; and (4) the interest
22 of creditors. Based upon the advice of special counsel, the trustee believes that the proposed
23 settlement in this case meets the criteria and is a reasonable settlement of all claims.

24 The trustee believes that the outcome of any legal proceeding is uncertain. In addition, legal
25 proceedings would require the estate to incur legal costs, expert fees, and litigation costs that might
26 further diminish recovery. Special counsel is filing a declaration in support of the settlement,
27 available for review through the Clerk of the Court, which explains the difficulties in obtaining
28 recovery on slip and fall cases and the substantial reduction in such cases because of allegations of

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1 comparative negligence by claimants. The trustee believes that, based upon the advice of special
2 counsel and the resolution through the mediation proceedings, the proposed settlement is
3 reasonable.

4 2. For authority to pay compensation to Greg Murphy of the Law Offices of Gregory J.
5 Murphy P.S., special counsel to the estate, in the sum of \$4,800.00, for attorney fees plus
6 reimbursement of costs in the sum of \$4,504.60.

7 Special counsel is filing an application for compensation with the court which is available
8 for review through the Clerk of the Court. The fees are based upon a contingency fee of forty percent
9 of the gross amount of recovery on the claims. Counsel has submitted an itemization of costs for
10 which he seeks reimbursement.

11 3. For denial of the debtor's exemption claim in the settlement proceeds obtained by the
12 bankruptcy estate.

13 The debtor did not list the employment claims in her original schedules. Subsequently, the
14 debtor amended her schedules to list the claim as a "tort claim pending" and claimed an exemption
15 of \$19,490. An exemption is not allowed if an asset is concealed. 11 U.S.C. 522(g)(1)(B). The
16 trustee is requesting that the debtor's exemption claim in the settlement proceeds be denied.

17 4. For abandonment of any other employment claims by the debtor

18 Litigation is continuing against the remaining defendants in the state court proceedings.
19 Since the bankruptcy estate is receiving sufficient funds to pay administrative fees and costs and all
20 timely filed creditor claims filed in the bankruptcy proceedings, the bankruptcy estate lacks a
21 cognizable reason to pursue any other employment claims by the debtor.

22 Under the current circumstances, the trustee is proposing, pursuant to 11 U.S.C. §554, to
23 abandon the bankruptcy estate's interest in any other employment claims or the basis that the claims
24 are burdensome or of inconsequential value to the bankruptcy estate. In proposing the abandonment,
25 the trustee is not making any determination as to the merit of any other employment claims.

26 WHEREFORE, the trustee requests that the court (1) authorize the settlement of the
27 employment claims; (2) determine the application by special counsel for fees and reimbursement

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1 of costs; (3) authorize abandonment of any other employment claims; and (4) deny the debtor's
2 exemption in the settlement proceeds obtained by the bankruptcy estate.

3 DATED this 22nd day of June, 2010.

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5 /s/ Ronald G. Brown
6 Ronald G. Brown, WSBA #8816
7 Chapter 7 Trustee
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